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Held at the Palais Wilson, Geneva,
on Friday, 27 October 2000, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

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GE.00-45387 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Gabon (CCPR/C/128/Add.1; CCPR/C/70/L/GAB)

1. At the invitation of the Chairperson, Mr. Missongo, Ms. Biké, Mr. Essono, Ms. Boumba Bouddhou, Mr. Hervo-Akendengue and Mr. Pambou (Gabon) took places at the Committee table.

2. The CHAIRPERSON, after welcoming the delegation and outlining the procedure to be followed during the dialogue, invited the head of the delegation to make his introductory statement to the Committee.

3. Mr. MISSONGO (Gabon) said that during the presentation of Gabon's initial report in 1996, his delegation had highlighted milestones on the road to Gabonese democracy. They had included the holding of a national conference in 1990, at which representatives of the whole political spectrum had taken part, resulting in the current multi-party system and the amendment of the Constitution in 1994, which had strengthened the rule of law. The reorganization of State institutions had heightened awareness of the vital role played by fundamental freedoms and human rights in the country's development. Moreover, the establishment of a Ministry responsible inter alia for human rights had made a significant contribution to the implementation of government policy, and had resulted in improvements in the following areas. The national police force had been returned to the supervision of the Ministry of the Interior and so any allegations of violations by the police could now be brought before the ordinary courts, as appropriate. An effort had been made to reorganize prisons with a view to increasing their capacity and guaranteeing better conditions for untried and convicted prisoners.

4. In the knowledge that respect for human rights was a prerequisite for democracy and peace, his Government had undertaken a policy of promoting and protecting such rights, through the dissemination of information on relevant international instruments, the organization of seminars and the training of special staff to draft periodic reports. Steps had been taken to incorporate human rights in school curricula and an interministerial commission had been set up to identify discriminatory legislative provisions, particularly with regard to women. Other reforms of national legislation and regulations were planned so as to bring them into line with ratified international instruments. Following the ratification of the Covenant in 1983, its provisions had been fully incorporated into national legislation; its principles could be invoked by the State and were binding on the authorities. Gabon had, however, upheld universal human rights principles long before the drafting of the Covenant. Since independence, its various constitutions had affirmed their commitment to human rights and fundamental freedoms as embodied in the Declaration of the Rights of Man and the Citizen of 1789, which had been sanctioned by the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and the National Freedom Charter of 1990. The practical implementation of such a policy was reflected in different sectors of political and civil life. The entire population was guaranteed all the individual and collective rights relating to public life set forth in the

Covenant, including the right to hold opinions, freedom of conscience, freedom of movement, the right to be elected to public office and the right to form associations and trade unions, as could be seen in the political, administrative and religious spheres.

5. Under Act No. 24/96 of 6 June 1996 there were no restrictions on the establishment or the activities of political parties. The right to form political and other associations, trade unions and religious communities was guaranteed to all people living in Gabon, subject to observance of the law, the preservation of public order and the moral integrity of individuals. The indigenous Gabonese were mainly animists, although colonization had introduced other religions into the country, mainly Catholicism and Protestantism and to a lesser extent Islam. However, there were large numbers of Muslims in the foreign community. Proselytism was a recent phenomenon and not yet subject to regulation.

6. Entry into public service was open to all, in accordance with the principle of equality of opportunity, provided that candidates had the requisite qualifications. Promotion was obtained automatically every two years, and through competitive examinations or further training. Civil servants were entitled to see their file and choose their own lawyer to defend them in any disciplinary proceedings.

7. In the political sphere, the National Communication Council ensured freedom of broadcasting and was responsible for a free and democratic press, equitable treatment for all political parties and associations, and the observance of rules relating to electoral broadcasts through the publication of a timetable for the fair allocation of media time for all candidates. The logistical side of preparing for elections was the responsibility of the Ministry of the Interior, while the National Electoral Commission was responsible for their organization. The various local electoral commissions were presided over by judges and comprised equal numbers of representatives of the governing and opposition political parties. Voting, on the basis of one person one vote, took place in the presence of international observers and on public premises, where voters, having filled out their ballot papers in individual booths, deposited them in a transparent ballot box. The votes were counted in public, in the presence of the candidates and representatives of the political parties concerned. Failure to comply with those provisions meant that the results of the vote would be declared invalid. Polling officers must record any reservation expressed by their staff or a political party representative or candidate. Anyone could lodge an appeal against the results provided that it related to the polling station in which he had voted or the constituency in which he had stood for election.

8. On the situation of women he said that polygamy was a recognized social institution benefiting men and based on deeply rooted cultural considerations. It was freely chosen by adults at the wedding ceremony, but was not subject to further regulation. It was practised primarily in rural areas; however, owing to communication problems it was difficult to provide relevant statistics. The concept of a woman's obedience to her husband, covered by article 252 of the Civil Code, must be placed in context. It should be understood not as enslavement or exclusion from family decision-making or as a situation where the woman had no rights, but rather as the result of the position traditionally held by the man as head of the family. As with all human groups, in the event of disagreement someone had to have the final say. Where the husband had been deprived of his civic rights, by law the wife acted as head of the family.

9. With regard to divorce, Gabonese law did not distinguish between men and women but the winning and losing spouse. The former retained the advantages provided by marriage, and was entitled to apply for maintenance, to keep the marital home and to gain custody of the children, on the understanding that the other spouse had ample visiting rights. The minimum age for marriage was 16 for girls and 18 for boys.

10. After her children, a widow held usufruct of a quarter of the property left by her husband but forfeited that right upon remarriage outside the family without valid reason. She could also renounce such right or be deprived thereof by court decision. Sometimes custom prevailed over the law, but the situation was soon remedied when the matter was brought before the competent court.

11. Given that compulsory education lasted up to the age of 16, no child could be employed under that age. The Labour Code prohibited forced labour. Slavery, child trafficking and female circumcision were unknown in indigenous Gabonese culture, hence the absence of regulation. Such problems were more common among the recently-established foreign community, to the extent that the Government had had to draw up suitable draft legislation.

12. With respect to article 4 of the Covenant, he explained that under normal circumstances the exercise of basic rights and freedoms was guaranteed for all persons on Gabonese territory. Even married women enjoyed freedom of movement, without the consent of their spouse or the authorities. However, events likely to jeopardize public freedom and security obliged the State to impose restrictions. Such measures were universally applied as and when required and were not based on considerations of race, religion or ethnic origin. Their sole purpose was to restore public order, security and peace. Restrictions were placed exclusively on the freedoms listed in the Emergency Act and lasted for two weeks only. The use of force might also be required to ensure observance of measures laid down by the law or a judicial decision, or to quell violent demonstrations.

13. Expulsion was an administrative measure taken against a foreigner whose presence in Gabon was deemed undesirable, representing a threat to public order, health, morality or security, or who had received a prison sentence of more than one month (Act No. 05/86 governing the entry and stay of foreigners in Gabon). The administrative decision could be appealed in the ordinary courts.

14. In accordance with article 45 A of the Code of Criminal Procedure, the maximum duration of police custody was 48 hours. However where there was no representative of the Public Prosecutor's Office, a person could be held for a maximum of one week, after which he must appear before a public prosecutor or examining magistrate. Pre-trial detention lasted for up to six months for ordinary offences and one year for serious offences, and could be extended once only for a further six months.

15. All detainees were entitled to the assistance of counsel when appearing before a judge and could refuse to make a statement pending the arrival of the lawyer of their choosing, with whom they were free to communicate, unless decided otherwise by a judge for a period of up to 10 days, which could be extended once. That was not intended to deprive the accused of his

rights, but to prevent any fraudulent agreement between him and outsiders; it did not affect the lawyer. There was no provision for the presence of a lawyer during police custody on account of its short duration; the Public Prosecutor's Office carried out regular checks to prevent abuse.

16. All persons held in detention were entitled to medical care; there were first-aid clinics in prisons. Convicted offenders, persons awaiting trial, minors and hardened criminals were separated in prisons, while women and civil servants were held in an annex. Reductions in sentences for certain offences were regularly announced by presidential decree. A person could be imprisoned for civil debt where he had deliberately engineered his own insolvency. Where the debtor was found by the competent court to be in bad faith, he was liable to the sentence laid down in the Penal Code according to the amount of debt involved. The relevant decision was subject to appeal. It did not therefore involve an arbitrary procedure but offered the persons concerned adequate protection.

17. Regarding the judiciary, he said that, in the event of human rights violations, appeals could be addressed to the Constitutional Court, which guaranteed basic human rights, and to the Court of Cassation, appeal courts, tribunals and the State Council to seek redress for any injury that might have been incurred.

18. Appointments and promotions were decided by the Supreme Council of Justice, which was chaired by the President of the Republic. The Minister of Justice was the Vice-Chairman and members included all court presiding officers, two serving judges and five members of parliament. Decisions must be unanimous. The Council was also responsible for guaranteeing the independence of the judiciary. The members of the National Human Rights Commission had recently been appointed.

19. The CHAIRPERSON invited the delegation to reply to the list of issues (CCPR/C/70/L/GAB), which read:

"Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Given the existence of a new Constitution (Act No. 1/97 of 22 April 1997):

(a) What is the current status of the Covenant in Gabonese law?

(b) What guarantees and remedies exist to give effect to the rights set forth in the Covenant?

2. Please provide information regarding the possible creation of a national human rights commission.

States of emergency (art. 4)

3. Is the law regarding states of emergency consistent with the provisions of the Covenant? Which rights are non-derogable in a state of emergency?

Gender equality (arts. 3, 12 and 26)

4. Please provide statistical data concerning the practice of polygamy. What are the woman's rights when the marriage is dissolved? In the light of the Committee's General Comment on article 3 (General Comment No. 28, CCPR/C/21/Rev.1/Add.10, para. 24), what measures are contemplated to make the situation of married women compatible with the provisions of the Covenant?

5. What are the rights of women and, in particular, widows in matters relating to inheritance?

6. (a) Please provide information regarding the concept of a wife's obedience to her husband and about its legal consequences in the fields of civil law and customary law.

(b) Are women able to travel, including abroad, without permission?

7. Should the practice of female genital mutilation exist, please state what measures the Government has taken or is considering taking to eradicate it and to punish those who engage in it.

Right to life; treatment of persons and prisoners; right to liberty and security of person (arts. 6, 7, 9, 10 and 16)

8. (a) Since the death penalty has not yet been abolished, how many accused persons have been sentenced to death in the past 10 years?

(b) Such sentences are often commuted to life imprisonment (para. 15 of the report): is this a general principle? If so, please indicate whether the Government intends to abolish the death penalty.

9. (a) Under what circumstances are law-enforcement officers permitted to use force?

(b) Is there an independent procedure of inquiry to ensure that any allegations of ill-treatment by the police or prison staff are duly investigated? Please provide statistical data on the number of incidents reported and about the outcome of investigations into those incidents.

10. (a) What is the legal time limit for police custody and pre-trial detention? Is there a limit to the number of extensions of the period of police custody?

(b) What rules apply to the extension of police custody?

(c) Is a maximum duration set for detention pending trial? What is the average length of such detention?

11. How is the prisoner's right to contact a lawyer, his family or, if necessary, a doctor guaranteed both during police custody and when serving a sentence of imprisonment?

12. According to paragraph 36 of the report, Gabonese law provides for an entitlement to reparation in the form of damages in the event of arbitrary or illegal detention. Please state in how many cases compensation has been granted and give examples.

13. Please provide specific information about prison conditions and give statistical data on the number of prisoners in the various prisons.

14. Please provide detailed information concerning HIV-positive prisoners. Do they receive medical treatment? What is done to prevent contamination with HIV?

Civil imprisonment (art. 11)

15. Please state whether imprisonment for civil debt has been abolished, as recommended by the Committee following its consideration of the initial report.

Procedure for expulsion (art. 13)

16. What are the regulations governing the expulsion of aliens, and what rules are in force to allow an alien to submit reasons against his expulsion?

Right to a fair hearing (art. 14)

17. (a) Please provide information about measures to guarantee the independence and impartiality of the judiciary. Please indicate how the judges of the various courts are appointed and how they can be dismissed from office.

(b) What rules of criminal procedure apply in Gabon to safeguard the rights provided for by article 14 of the Covenant, particularly the presumption of innocence (14 (2)), the right of review by a higher tribunal (14 (5)), and the rights of the defence (14 (3))?

Freedom of religion (art. 18)

18. Please state what religions are found in Gabon and whether proselytism is permitted. How numerous are conversions? Are there any new religious movements in the country? Are they registered and, if so, what are the rules for that?

Freedom of opinion and expression (art. 19)

19. With reference to paragraph 39 of the report, what specific guarantees are established by law to protect freedom of opinion and expression? How is the freedom of the press (including radio and television) guaranteed? Please state under what circumstances journalists may be placed in detention.

Rights of the child (arts. 24 and 8)

20. How does the State provide for the protection of children against forced labour? Is it true that foreign children are more often victims of that practice than Gabonese children? How does the State intend to remedy that situation?

Participation in public life (art. 25)

21. (a) What guarantees exist to ensure the free expression of the wishes of the electorate during elections? What body prepares for and supervises the elections and how is its independence guaranteed?

(b) Please indicate the status of political parties in Gabon. How is pluralism in the sense of General Comment No. 25 (art. 25), and particularly paragraph 22 thereof, guaranteed?

(c) With respect to the requirement in article 25 (c) of the Covenant for access to public service on conditions of equality, please state the criteria for appointment, promotion, suspension and dismissal of public servants.

Rights of persons belonging to ethnic, religious or linguistic minorities (art. 27)

22. Please comment on the situation of the indigenous population in Gabon, and explain in particular what measures are in place to protect the traditional way of life of the Baka people (pygmies) (para. 50 of the report).

Dissemination of information concerning the Covenant (art. 2)

23. Please indicate steps taken to disseminate information on the submission of the initial report of Gabon and its consideration by the Committee. Please also provide information on education and training on the Covenant provided to all categories of public officials."

20. Mr. ESSONO (Gabon) said that many of the questions had been covered in general terms in the introductory statement and report (CCPR/C/128/Add.1). Referring to question 1, he said that, pursuant to Gabon's procedure for ratifying international instruments, the Covenant had been incorporated in domestic legislation following its ratification in 1983. The review of the Constitution in 1997 had strengthened that action by introducing a reference to the Universal Declaration of Human Rights.

21. Unlike in most other French-speaking African countries, any person could appeal directly to the Constitutional Court against a court decision which he claimed to be a violation of his human rights. However, the Constitutional Court could not award compensation, which came under the competence of the Court of Cassation, appeal courts and tribunals.

22. In reply to question 2, he said that members of the National Human Rights Commission had recently been appointed and that the Commission would shortly become operational.

23. With respect to question 3, he stressed that Gabon was a free country governed by the rule of law and that its legislation was in keeping with article 4 of the Covenant. A state of emergency could only be declared when public order or the State institutions were under threat or in the event of a natural disaster. In such circumstances, restrictions were placed on the freedom of assembly and freedom of movement and were applicable to the population as a whole. Questions 4-7 relating to gender equality had been dealt with in the introductory statement.

24. On question 8 he said that the position in regard to the death penalty was somewhat contradictory. The courts were still empowered to order the death penalty but Gabon had ratified not only the Covenant but also the African Charter on Human and Peoples' Rights, and the penalty had not in fact been carried out for nearly 20 years. The position in law would be regularized in the near future. In practice, death sentences were almost automatically commuted to life imprisonment.

25. On question 10, he said that the legal time limit for police custody was 48 hours and was not renewable. Pre-trial detention was limited to six months, after which the accused must be either tried or released, unless the case was prolonged. Several of the following questions had already been answered by his delegation. In answer to question 15, he noted that the procedure in regard to imprisonment for civil debt offered all the necessary guarantees. On question 16, he said that expulsion of aliens could be ordered either by the Ministry of Justice or by the court; in either case recourse was possible. On questions 18 and 19, he said that freedom of religion and freedom of opinion were both enshrined in the Constitution, as was the right to a fair hearing. Currently, there were no political prisoners in Gabon. Regarding question 21 on participation in public life, he said that since 1990 all citizens had been free to found political parties or to organize trade unions, even in the civil service. Regarding question 22 and the rights of persons belonging to ethnic, religious or linguistic minorities, he emphasized that Gabon was a completely integrated society, despite the existence of some 40 different ethnic groups, and that there was no problem of minorities in Gabon.

26. The CHAIRPERSON invited members of the Committee to put any further questions they might have to the delegation. She would then ask the delegation to reply.

27. Mr. ZAKHIA extended a warm welcome to the delegation of Gabon. At the same time, he regretted that, despite the report and the replies to the list of issues, he was unable to form a sufficiently clear idea of the state of human rights in Gabon. He had formed a general and theoretical impression of the rule of law, but he had no idea of the situation at the practical level. Members of the Committee would need to ask many questions if they were to acquire a complete picture of the situation.

28. He particularly wished for more information on the situation of women in Gabon. Gender inequality seemed to be a fundamental problem in Gabonese society as a whole. He could understand that, for reasons of custom or religion, it was not easy for Gabon to bring about the equality of men and women required by the Covenant. The Government needed to show, however, that it recognized the de facto inequality engendered by polygamy and the concept of a wife's owing obedience to her husband, and to outline those measures it intended to take to remedy the situation. He would like to know more about the actual situation of women with regard to marriage, divorce, repudiation, inheritance, custody of children and so on. Genuine equality needed to begin in the family. As far as public life was concerned, the Committee had no clear idea about the number of women in posts of responsibility because no figures had been presented. Were women in fact represented in the main decision-making bodies and, if so, in what proportion? Was there anything to prevent the State from instituting a quota system in that regard, of the kind existing in many other countries? He was convinced that the problem must be solved. He wished to know the Government's idea of gender equality and the extent to which that idea conformed to the provisions of the Covenant. Also, what practical steps did it intend to take in order to remedy a manifestly unequal situation?

29. Mr. BHAGWATI said he regretted to find Gabon's second periodic report to the Committee far from satisfactory. It did not set out the situation of human rights in practice on the ground, nor did it provide the facts that would enable the Committee to assess the situation for itself. The report failed to take into account the Committee's concluding observations after its consideration of the initial report, in which several concerns had been expressed. The whole object of the dialogue between a State party and the Committee was to improve the human rights situation in the country concerned. Unless the Committee was told what action had been taken to meet the concerns expressed and given the necessary factual information, it could not possibly evaluate the situation. Some additional information had been provided in the answers to the list of issues, but it would have been more useful had it been included in the written report.

30. He understood that, in 1997, a virtually new Constitution had been adopted through the enactment of an amendment. Was the Covenant incorporated in that new Constitution? He deduced from the replies that it had been not exactly incorporated, but given the status of domestic law. If that law was inconsistent with rights under the Covenant, did the Covenant have primacy? Could rights under the Covenant be directly enforced in the courts? The Committee had been told that anyone could initiate proceedings in the Constitutional Court for the enforcement of rights under the Constitution. Could the Constitutional Court also be approached for enforcement of rights under the Covenant, in cases where some of those rights had not been embodied in the Constitution? What was the composition of the Constitutional Court and what were its functions? Could the validity of legislation be challenged in the Court on the grounds of inconsistency with the Covenant or with the fundamental rights set out in the Constitution itself? By what body were the judges of the Constitutional Court and other courts appointed? Did the Supreme Council of Justice, to which reference had been made, consist chiefly of members of Parliament and was there any way in which political influence could be excluded? What was the position in regard to security of tenure or grounds for dismissal of judges of the Constitutional Court and other courts? All those matters were vital to the independence of the judiciary.

31. He shared Mr. Zakhia's concerns about the position of women in Gabon. Paragraphs 9 and 10 of the report gave no details regarding the participation of women in public and political life or their employment. He had two questions of his own in regard to gender equality. The Committee had been told that, on the death of the husband, the widow had the right to one fourth of the movable property. What happened in the case of the immovable property? Did she also inherit a quarter share or was she excluded? If the wife died, was the husband entitled to all the property? The duty of obedience was also very disturbing in that it reduced the wife to a subordinate position.

32. He noted that there had been no positive response to the Committee's concluding observation about the continuance of the death penalty. If it was commuted to life imprisonment in almost all cases, what stood in the way of its abolition? The concluding observations on prison conditions had also met with no response beyond the general statement in the report. Were the requirements of article 10 of the Covenant being complied with? Lastly, he would like more information on the National Human Rights Commission. Had it been established by Executive Order or through legislation? By whom was it appointed and what were its composition and powers? Could it investigate complaints from citizens and on its own account, and could it award compensation?

33. Lord COLVILLE said that the lack of factual information in the report and the replies to the list of issues placed the Committee in a very difficult position. The delegation should understand that, under article 40.4 of the Covenant, the Committee was required to study the reports submitted by States parties and to report back to them. It had decided to make the task of States parties easier by setting out guidelines for the compilation of those reports and he urged the Government of Gabon to look carefully at the guidelines that had been adopted. They made it clear that facts and statistics were needed, as well as norms. There were none at all in the current periodic report. Another feature of the guidelines was that the main starting point of a periodic report should be the concluding observations made on the previous one. Those observations were intended to focus the State party's attention on matters of special concern. Almost none of the Committee's concluding observations had been addressed in the current report. He strongly recommended, therefore, that the guidelines should be complied with on the next occasion.

34. In its concluding observations, the Committee had recommended that the Gabonese police force should be removed from army control and put under civilian control. There was nothing on that in the report, although the Committee had since been told that that had in fact been done. No answer had been given to question 9 of the list of issues regarding the circumstances in which force could be used, what mechanisms of control had been instituted and what treatment was prohibited. Question 9 (b) dealt with a problem that arose in every country - allegations of ill-treatment by the police. Was there an independent procedure of inquiry when allegations of that kind were made about police behaviour? The Committee had asked for statistical data on the number of incidents reported, but none had been received.

35. Prison conditions had been referred to in paragraphs 14 and 23 of the concluding observations and in questions 13 and 14 of the list of issues. Again, the Committee had heard nothing. What were the figures concerning the prison population, and the position of HIV-positive prisoners? All those matters were of extreme importance to the Committee's

consideration of Gabon's compliance with the Covenant. Regarding the new National Human Rights Commission, he had before him a document, dated 1998, stating that the Office of the High Commissioner for Human Rights had set up a joint project with the Government of Gabon, to which the High Commissioner's Office had contributed $665,000 and the Government $50,000. What had been the result of that large expenditure? Under the terms of reference of the project, the new Commission was to ensure the realizaiton of human rights throughout the country. The Committee should at least be told what it expected to be able to do in the future. A progress report on its effectiveness would help the Committee to look at the situation as it would wish and as it was required to do.

36. Ms. CHANET regretted that Gabon's second periodic report had not sufficiently taken into account the Committee's concluding observations on the initial report. The delegation had, however, recognized the inadequacy of the written report and done its best to provide information orally, as well as expressing its willingness to reply to the Committee's questions.

37. She herself would like more information on the status of NGOs in Gabon. She noted that no information had been provided by any NGO, which was most unusual. She appreciated the quite specific information given by the delegation regarding a constitutional remedy for individuals, which was a very positive development. She would like to know the extent of the remedy, however. Although the Covenant had been given a value equal to law, it was not on the same level as the Constitution. Could an individual apply for a remedy on the basis of the Constitution or on the basis of the Covenant, which clearly went further than the Constitution? Could the Covenant be cited in the ordinary courts, in the same way as the fundamental rights set out in the Constitution?

38. She would also like to know whether there had been any recent legislation on states of emergency. What individual rights could be suspended in the event of the declaration of a state of emergency? She noted that article 4.2 of the Covenant spoke of certain non-derogable rights, and she would like to know the position in Gabonese legislation in that respect. In regard to article 14 and the right to a fair hearing, the Committee needed to know more about the special courts referred to in the Constitution. She asked whether the Supreme Council of Justice was chaired by the President of the Republic and, if so, whether he also held the Chair when disciplinary matters were discussed.

39. Regarding article 9 of the Covenant, she noted that the right to security of person was not included in the Constitution. In that case, was that provision of the Covenant valid in Gabon? The special case mentioned by the head of the delegation whereby police custody could last for a week did not comply with article 9. A doctor could be consulted during police custody, apparently, in case of necessity. She pointed out that the aim of having a doctor see the prisoner both before and after his time in custody was to ensure that he had not been maltreated. On equality between men and women, she associated herself with the remarks made by Mr. Zakhia. In speaking of the remarriage of widows, the delegation had used the phrase "without valid reason". She would like to know exactly what was meant.

40. In connection with article 11, she noted that the Committee's concluding observation had been disregarded and regretted that no progress had been made respecting imprisonment for debt. Lastly, she would like more information on freedom of the press. Certain provisions of the Constitution seemed rather ambiguous in that regard.

41. Mr. YALDEN said that many of the questions he would like to ask had already been put by other Committee members. He regretted that, in regard to the newly appointed National Human Rights Commission and the question of gender equality, not enough information was provided to enable the Committee to form a clear idea of the situation. On the question of minorities, the report simply stated that the population was fully integrated and that there was no problem in that regard. That was exactly what had been said in the initial report. The Committee's concluding observations on that report, however, noted that not enough measures had been taken to guarantee human rights for minorities as required by article 27 of the Covenant. The Committee wished to learn about the implementation of that article, but again it was unable to do so because no facts or figures were provided. The Committee's sister institution, the Committee on the Elimination of Racial Discrimination, had already had occasion to remark on the absence of the demographic data needed to enable it to reach conclusions on minority rights. The Committee would be particularly interested to hear about the Baka people in Gabon and their place in society.

42. Mr. SOLARI YRIGOYEN said that, like other members of the Committee, he had found it difficult to get a clear picture of the situation in the country from the report. The Committee needed to know far more than what legislation was in place: it needed to know what was happening in practice. Most countries had laws to protect the rights of its citizens, but what interested the Committee was how they were enforced, and the attitude of the Government in cases where those rights were violated, for instance through police brutality.

43. He would appreciate information on the situation in prisons in the interior of the country. What was the total prison population and was there any overcrowding? He had been pleased to learn that there was now a multi-party system instead of a single-party system in Gabon, but would like to know how many political parties there were and, more important, the extent to which parties other than the majority party were represented in Parliament. While he welcomed the fact that under the constitutional reforms of 1997 the Universal Declaration of Human Rights had been incorporated in the Constitution, he noted that the same had not been done with the Covenant, and suggested that consideration be given to including it when the next reforms were introduced. It had been stated that a National Human Rights Commission had been established: he would like to know what its powers would be, how its members would be appointed, what qualifications they would hold, and how their independence would be guaranteed. He understood that the death penalty was still on the statute book, but had not been applied for some 20 years. What crimes were subject to the death penalty, and how many persons had been sentenced to death in recent years? Was the death penalty to be abolished in the near future?

44. Concerning gender equality, the information provided was again insufficient, and more statistics were needed. It would appear that women's participation in all spheres was still minimal, and that they lacked powers of decision-making not only in public life but also in private life. It had been stated that divorce was an adversarial procedure, whereby one party would ultimately be the winner and the other the loser. Was there no divorce by mutual consent?

Did men and women have the same rights in divorce cases? Like Mr. Zakhia, he could not accept the reasoning advanced to justify the practice of polygamy, which contravened the provisions of the Covenant. Under what law was that practice justified? Nor could he accept the concept of obedience, whereby the husband was the one who gave the orders and the wife the one who obeyed, in contravention of the principle of equality between spouses. What was being done to remedy that situation?

45. The Committee also needed more information as to how the independence of the judiciary was guaranteed. It was not clear to him how the President could be responsible for guaranteeing that independence. Was it still the case that the police came under the authority of the Ministry of Defence rather than the Ministry of the Interior? Lastly, in the five years since the previous report, how many states of emergency had been declared, and on what grounds? He expressed appreciation of the goodwill shown by the delegation in responding to the many questions raised.

46. Mr. KLEIN said he was pleased to note that Gabon had become a party to the Covenant without any reservations. However, he was bound to express his disappointment at the way the report had been drafted, and at the answers given to questions on the list of issues, since the list had been in the possession of the State party for some time. On the question of minorities, paragraph 50 of the report was very laconic and completely failed to address the real issues. He pointed out that article 27 of the Covenant required that the State party should not deny the right of minorities to enjoy their own culture, religion and language; he would have liked some information as to how that article was implemented in practice.

47. He noted that article 25 of the Constitution referred to specific laws regulating states of emergency, and that article 26 stipulated that in a state of emergency "measures required by the circumstances" could be taken. That provision was very broad, and he would like to know what impact such measures would have on Covenant rights.

48. Paragraph 13 of the report stated that none of the rights enshrined in the articles listed in article 4.2 of the Covenant could be derogated from, but he had not found any provision in the Gabonese Constitution to that effect, and it appeared that the Covenant did not have constitutional status. The position in regard to derogations was therefore not very clear. Article 29 of the Constitution referred to other states of emergency such as a "state of alert", and he would like to know whether that situation too would have any impact on rights enshrined in the Covenant.

49. In view of the fact that paragraphs 9 and 10 of the report stated that equality of the sexes was provided for in article 2 of the Constitution and ensured by domestic law, he had been disturbed to hear that polygamy was still practised. He was aware that in many African States there was coexistence between statutory and customary law, but was that coexistence acceptable when the Constitution itself ordained equality of the sexes? Should not statutory law take precedence, so that customary law would eventually be superseded?

50. Concerning article 19 (freedom of expression) he would like to know whether all radio and television networks were State-owned or whether privately-owned networks existed. In the former case, how was it ensured that broadcasting was free and that its content was not government-controlled?

51. He recommended that the State party undertake a comprehensive study of the implications of its ratification of the Covenant, and in particular of ways of ensuring that Covenant rights were respected. Gabon should also undertake a thorough examination of the whole corpus of its domestic law with a view to bringing it into line with the requirements of the Covenant. A law commission could perhaps be established for that purpose.

52. Ms. EVATT associated herself with the comments made by earlier speakers. On each occasion when Gabon had submitted a report, the Committee's work had been hampered by the absence of real information, both in the report itself and in the responses given by the delegation, and what it had just heard had not been particularly reassuring. Was the Government aware that the concept of equality and non-discrimination was an essential element of the rights protected by the Covenant, and that it was nowhere more important than in regard to equality between men and women? Was it aware that the Committee had clearly stated that polygamy violated the dignity of women, constituted inadmissible discrimination and should be abolished?

53. Equality of responsibility and authority in the family was required under international obligations, and it contravened those obligations to afford to the husband the position of head of the household. The principle of gender equality also had implications for women's participation in economic and political life. She would be glad of some explanation of why the "winner takes all" principle should apply in the case of divorce, since equality required that the contributions of both parties to the marriage should be assessed.

54. On the issue of minorities, she found the report quite unacceptable. It was well known that there were many pygmies in Gabon, who were not at all integrated into the social and political structure of the country. In regard to religious minorities, was it the case that the Jehovah's Witnesses were subjected to restrictions on their activities?

55. Mr. KRETZMER said he too was disappointed that, in spite of the Committee's comments in its previous concluding observations, the report was very laconic and provided little information.

56. The Committee had specifically recommended that all legal provisions and executive orders be reviewed to ensure their compatibility with articles 7, 9 and 10 of the Covenant and their effective implementation in practice, but it was impossible to judge from the report whether that had been done. Thus, article 9.3 of the Covenant stated that it should not be the general rule that persons awaiting trial should be detained in custody, but the delegation had simply stated that the maximum length of pre-trial detention was six months. He would be glad to know what criteria were used in ordering pre-trial detention, the average period of time served, how often those periods were renewed, and what proportion of the prison population were persons awaiting trial.

57. Referring to article 10.2, he asked whether the law in Gabon required that accused persons be separated from convicted persons and that juveniles be separated from adults, and if so, whether the law was respected in practice. Lastly, the delegation had stated that an accused person was entitled to the services of a lawyer from the moment he was brought before the judge. Did that imply any restrictions on the right of an accused or arrested person to have access to a lawyer during the period before he appeared in court?

58. Mr. WIERUSZEWSKI said he hoped that Gabon would take careful note of the Committee's comments, which should assist it greatly in the preparation of its next report. Concerning equality of the sexes, he would appreciate information regarding violence against women, which according to his sources was still widespread, particularly in rural areas. To what extent was the Government aware of that phenomenon, and was it taking any action to change public attitudes?

59. The issue of freedom of movement, a right covered by article 12 of the Covenant, had been raised in connection with Gabon's initial report and had been addressed in paragraphs 22 and 23 of the second periodic report. He asked the delegation to explain the reference in paragraph 22 to formalities to be completed by persons moving from one place to another within the country. He understood that the country's geographical situation made it virtually impossible to prevent illegal immigration but there were reports of police officers stopping people who were in possession of work permits and asking for additional documentation, a practice that led to corruption and bribery. He wished to know whether steps had been taken to eliminate that practice. Was an exit visa still required for foreigners legally resident in Gabon who wished to leave the country?

60. Turning to article 19 of the Covenant, he asked what action was being taken to prevent the intimidation of journalists and whether illegal methods were used to prevent journalists from criticizing the Government. There had been cases in 1998 of officials bringing libel suits against journalists. Did that practice still exist and, if so, what had been done to stamp it out? He associated himself with Mr. Klein's question concerning the electronic media, especially television, which was State-owned.

61. With regard to pygmies, he wished to know what practical measures had been taken or were envisaged to increase their involvement in the country's political and social life.

62. Mr. HENKIN said he was impressed by the fact that individuals in Gabon had access to the Constitutional Court. But he wondered what remedies existed in the case of rights that were protected by the Covenant but not by the Gabonese Constitution. He was concerned that, despite the introduction of formal safeguards, there seemed to have been no major improvement in the human rights situation of the individual since the adoption of the Covenant.

63. Associating himself with many of the questions raised by other members, he said he was struck by the unanimity of their response to certain key issues such as the treatment of minorities. He described the delegation's attempt to justify polygamy as ludicrous.

64. According to recent reports from reliable sources, prison conditions in Gabon were atrocious. Sanitation was almost non-existent and the food was wholly inadequate. Inviting the

delegation to comment on that assessment, he asked what official body was responsible for prison conditions and whether it planned to remedy a situation that constituted a gross violation of article 10.1 of the Covenant.

65. Reports had also been received of gross discrimination in law and in fact against Africans of non-Gabonese origin. Immigrants and refugees were allegedly denied the equality of treatment required by the Covenant. In particular, non-Gabonese African children were denied equal access to education and health care. Moreover, there was apparently a market in unfree child labour from other African countries.

66. Mr. SCHEININ said that the presence of a high-level and competent Gabonese delegation provided a good starting point for the dialogue necessitated by the inadequacy of the information provided in the second periodic report. Noting that women no longer required permission to travel abroad, he asked how their right to travel was implemented in practice, for example in terms of the formalities to be completed when applying for a passport. Had the earlier requirement of obtaining their husband's consent been removed from the statute book?

67. Referring to the attempted assassination of the opposition presidential candidate, Mr. Mamboundou, in 1998, he asked whether investigations had been conducted, by whom and with what results.

68. In relation to the large number of non-citizens living in Gabon, he reminded the delegation of an assurance given to the Committee during its consideration of Gabon's initial report that refoulement was not practised. However, reports had been received of serious cases, in 1997, of refoulement of refugees who had had every reason to expect inhuman treatment on returning to their countries - Rwanda, Equatorial Guinea and Burundi. In particular, 168 refugees had been returned in military planes to Rwanda. He asked the delegation to comment on those reports and asked whether a strict non-refoulement regime was now in place.

69. Referring to allegations that the situation of migrant workers from other African countries in Gabon was insecure, he noted that, according to the delegation, aliens could be expelled pursuant to an administrative decision. That might imply that the safeguards against expulsion were not strong enough. Migrant workers were allegedly made to pay large bribes to prevent the security forces from depriving them of their residence permit and placing them at risk of expulsion.

70. With regard to the principle of the presumption of innocence, he asked whether there was a specific category of crimes or cases relating to State security in respect of which the submission by the prosecution of a certain body of evidence entailed a presumption of guilt.

71. He understood that there was a serious problem of trafficking in foreign children to be used as labour in Gabon. The children concerned were allegedly employed under conditions of forced labour or even slavery, especially on plantations. What was being done to fight that problem and was it true that government officials used child labour, in particular children from other countries?

72. Mr. ANDO welcomed the timely submission of Cabon's report but regretted its failure to address fully the Committee's concluding observations on the initial report. The report's comments on article 1 of the Covenant concentrated on Gabon's accession to independence but the right of self-determination also had an internal dimension, namely, the right of citizens to enjoy political freedom. He wished to know how Gabon's 40 ethnic groups were guaranteed internal self-determination in the form of political participation.

73. The grounds for non-discrimination mentioned in article 2 of the Gabonese Constitution were not as far-reaching as those set forth in articles 2.1, 3 and 26 of the Covenant. The cases in which an emergency could be declared under article 26 of the Constitution also differed from those permissible under article 4 of the Covenant. He would welcome the delegation's comments on that discrepancy. He asked for details of the increase in the number of women in the army referred to in paragraph 10 of the report. Paragraph 19 drew a distinction between infringements of the right to liberty and security of person by individuals and public servants. Was there any difference in the way the two categories of offenders were treated? According to paragraph 29, defendants who did not speak French, the official language, were assisted by a court interpreter. Were such services provided for all indigenous languages? He inquired about the composition, competence and functions of the National Communication Council referred to in paragraph 40 as a body that guaranteed freedom of expression. Had it encountered any particular problems to date?

74. He wished to know how many political parties existed in Gabon, what political views they represented and what kinds of activities they engaged in. Was it possible to establish a political party representing a particular ethnic group? How many trade unions operated in the country and what was the Government's policy towards them? Noting that Gabon had ratified the Convention on the Rights of the Child, he asked the delegation to comment on its implementation to date. During the Committee's consideration of Gabon's initial report, the delegation had referred, in connection with minority rights, to difficulties arising from an ethnic conflict. What was the current situation in that regard?

75. Mr. MISSONGO (Gabon) said that the President of the Republic normally chaired the Supreme Council of Justice but he was replaced by the President of the Court of Cassation in disciplinary cases. The presumption of innocence applied in all cases in Gabon. A presumption of guilt did not exist. Mr. Mamboundou, who had served as a deputy in the National Assembly and subsequently as leader of a political party, had recovered all his rights. The past had been forgotten and he was now a free citizen.

76. There were no plantations in Gabon employing child labour and the oil industry was far too specialized to use children. Moreover, the economic recession had led to high unemployment even among adults, so why should anyone wish to employ children? Children were protected in Gabon and were not sent out to work.

77. The pygmies were not marginalized or treated as second-class citizens. When they opted for a settled life, the State provided them with the same services as everybody else, including education and health care. When they opted to remain in the forest, it was they who shunned

contact with the outside world. But they enjoyed the same rights as others. There had never been any ethnic difficulties or conflicts in Gabon. Although there were 40 different dialects, it was difficult to tell them apart because of the intermingling of cultures.

78. The allegations of discrimination against foreigners in employment were absolutely unfounded. The Labour Code was the same for Gabonese and foreign workers. So long as foreigners complied with the terms and conditions of their employment contract, they met with no difficulties. Likewise, employers were required to fulfil their contractual obligations vis-à-vis foreign employees. The allegation that public officials made excessive demands on foreigners with a view to securing bribes was also unfounded. Those found guilty of corruption, regardless of their status, were duly punished by the law.

79. With regard to violence against women, the Penal Code made no distinction between the sexes since that would amount to discrimination. Where violence occurred, the perpetrator was brought to justice in the normal way. It was not a case of one rule for men and one for women.

80. The practice of intimidation of journalists no longer existed since the introduction of a multi-party system. There were no external restrictions but writers tended to exercise self-restraint so as not to encroach on the private lives of others.

81. Legal counsel could be present during the 48 hours of police custody, although there were no doubt cases of abuse of authority by police officers from time to time. With regard to the six-month period of pre-trial detention, in complex cases a prosecutor who was unable to bring the accused before the court immediately entrusted the case to an examining magistrate, who had six months in which to complete the investigation. During that period, there was nothing to prevent the accused from applying for release on bail. If the first six-month period proved insufficient, the magistrate was allowed a second six-month period to complete the investigation, failing which the public prosecutor was required to release the accused. The system was designed to ensure the speedy processing of cases and not to keep the accused in custody indefinitely.

82. Ms. BIKE (Gabon) expressed regret at the inadequacy of the information provided in the report. The delegation would do its best to provide as much practical information as possible that afternoon in response to the questions raised by the Committee. As she had served as Minister for Women's Affairs, she was quite knowledgeable about the situation of women and women's rights.

83. Child labour was a matter of concern in Gabon. It was alien to Gabonese culture and met with universal condemnation. In February 2000, Gabon had held subregional consultations, with the assistance of a number of donors, including UNICEF, to examine how the problem might be addressed, especially that of children from other countries of west Africa who came to Gabon through organized networks.

The meeting rose at 12.55 p.m.